

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BASF CORPORATION,
Plaintiff,
v.
PREMIER BODYWORKS, INC., *et al.*
Defendants.

Case No. 1:22-cv-01450-JLT-CDB
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS GRANTING IN PART
PLAINTIFF'S MOTION FOR DEFAULT
JUDGMENT
(Doc. 18)

BASF Corporation filed a complaint against Premier Body Works, Inc., and Mark Villanueva¹. (Doc. 1). The plaintiff filed proofs of service (Docs. 7-8). The defendants did not respond to the complaint, and the Clerk of the Court entered default.

Three months later, the plaintiff filed a motion for default judgment. (Doc. 12). The defendants have not opposed the motion. The assigned magistrate judge convened a hearing on the motion via videoconference on August 17, 2023. (Doc. 17). Attorney Bobbie Bailey appeared on behalf of the plaintiff, and Villanueva appeared on behalf of himself and separately noted his status as owner of Premier Bodyworks. *Id.* Randy A. Tucker appeared and provided sworn testimony as a witness for Plaintiff. *Id.*

¹ Throughout the filings, Mr. Villanueva's name is spelled "Viallanueva" or "Villanueva." Because it appears he provided his name as "Villanueva" at the hearing before the Magistrate Judge, (Doc. 17) the Court will spell his name "Villanueva" here.

1 The assigned magistrate judge issued findings and recommendations that the plaintiff's
2 motion for default judgment be granted. (Doc. 18). The Court found the plaintiff had established
3 the defendants breached a valid contract, and the plaintiff was due \$25,550.00 in expectation
4 damages and \$77,000.00 in liquidated damages. *Id.*

5 The Court served the findings and recommendations at an address Mr. Villanueva
6 confirmed was his address. (Docs. 17, 18 at 4). The findings and recommendations advised the
7 defendants that they must file any objections within 14 days after service of the order and that the
8 "failure to file objections within the specified time may waive the right to appeal the District
9 Court's order." (Doc. 18 at 17-18) (citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir.
10 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). The defendants did not file
11 objections or any other response to the findings and recommendations, and the deadline to do so
12 has passed.

13 Pursuant to 28 U.S.C. § 636(b)(1)(C), and Local Rule 304, this Court conducted a *de novo*
14 review of this case. Having carefully reviewed the entire matter, this Court concludes the
15 findings and recommendations are supported by the record and by proper analysis. Accordingly,
16 the Court **ORDERS**:

- 17 1. The September 8, 2023, findings and recommendations (Doc. 18) are **ADOPTED IN**
18 **FULL**.
- 19 2. Plaintiff's motion for default judgment (Doc. 12) is **GRANTED IN PART and DENIED**
20 **IN PART** as follows:
 - 21 a. Plaintiff's motion is **GRANTED** to the extent of its breach of contract claims
22 against Defendants and **DENIED** to the extent of Plaintiffs unjust enrichment and
23 declaratory relief claims against Defendants; and
 - 24 b. Plaintiff is awarded \$25,550.00 in expectation damages as to the loaned
25 equipment, and \$77,000.00 in liquidated damages against Defendants.

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1 3. The Clerk of Court is directed to close this case.
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3 IT IS SO ORDERED.

4 Dated: September 28, 2023


UNITED STATES DISTRICT JUDGE

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